There are nine pages of index; but in testing it on one particular subject the reviewer has sought in vain for the titles age, nonage, majority, minority, *pubes*, *impubes*, *pupillus*. M. S.

THE LAW OF HOMICIDE. By Francis Wharton. Third Edition by Frank H. Bowlby. Rochester: Lawyers Co-operative Publishing Company. 1907. pp. clvi, 1120. 8vo.

Those who are familiar with the two older editions of Wharton will find considerable difficulty in recognizing the work in its present form. The first and second editions were of 537 and 794 pages and cited respectively about 750 and 1700 cases; the present edition has nearly as many pages and half again as many cases as the two older editions together. The index has been entirely rewritten and greatly enlarged. In general the arrangement of chapters of the second edition has been followed. In many cases, however, what was treated in a sentence in the older work has now, by the growth of new distinctions and increased decisions, grown into a topic necessitating several sections or even a chapter for its adequate consideration. Like the earlier editions, the present covers not only the substantive law of homicide, but the law of criminal procedure as well, so far as it relates to trials for homicide. There is also a lengthy chapter on evidence in homicide cases.

The present edition has nothing to indicate what parts of it are the work of the author and what of the editor. So far as can be judged from a comparison with the second edition it would seem that the text of Wharton had been used where possible as a starting-point for further distinctions and illustrative cases, and elsewhere simply incorporated in the present text. In some few chapters, as for example that on Elementary Principles as to Malice, the language of the second edition stands practically unchanged.

The treatise as it now stands has, so to speak, been "standardized." It is a logically arranged, detailed, and for the most part clear statement of the various doctrines of the law of homicide. These statements of the law have been illustrated and supported by an almost exhaustively complete collection of decisions. The annotation on the statutory degrees of murder (pp. 153 *et seq.*); the citations on the varying rules as to the necessity for retreat in cases of self-defense (pp. 476 *et seq.*) are good illustrations of the diligence with which the work has been done. For the practitioner who wants to know what the decisions are on a given point the book will prove of great value. Further than this, however, one cannot fairly go. There is little of the personality of the editor felt in the work. One feels throughout a distinct lack of the consideration of conflicting views from the standpoint of general principles, the suggestion of possible distinctions between apparently opposed cases, and the discussion of points not yet settled by decision, — elements that go to make a law treatise of the first rank.

H. A. B.

HISTORY OF ROMAN PRIVATE LAW. By E. C. Clark. Part I. Sources. Cambridge: At the University Press. 1906. pp. 168. 12mo.

Professor Clark's purpose is to write a "new History of Roman Law," and while a firm believer in Ihering's method of treating the facts relating to the subject (to make "a generalization of the Spirit of Roman law — *as a whole*" on the "relation of cause and effect") he has his own special point of view: "to trace the development of that part of Roman law which has more particularly survived to modern thoughts and times," because Roman law is "an example and a lesson of experience for practical politics and actual life." This Part I., "Sources," is a critical consideration of the "sources of our knowledge" of Roman law from earliest Roman history to the last of the cited jurists or the commencement of the era of imperial codification of Roman law, — a period of nearly eleven centuries (from the traditional founding of Rome, 754 B. C., to the Codex Hermogenianus, 314–339 A. D.). Professor Clark divides

the Sources into two classes, primary and secondary, and the latter are further arranged under the four subdivisions of Historians, General Literature, Antiquaries, Jurists. The primary Sources, including the recent discoveries of inscriptions, like those collected in "Bruns' Fontes Juris" by Mommsen and Gradenwitz, are plainly emphasized. The secondary Sources — considered at length in nearly three-fourths of the present work — are justly weighed after a careful examination into the material available to each author. Special praise should be given Professor Clark for his very complete, thorough, concise, and happy treatment of the Roman jurists.

He shows great familiarity with modern English, French, and German literature on the civil law, and references are very frequently made to the works of authors such as Cuq, Girard, Karlowa, Krüger, Muirhead, Lenel, Roby, and Teuffel. An instructive table of juristic writers and an excellent index complete the work, which discloses on every page the profound learning and painstaking research of its scholarly author, whose style, though condensed, is always interestingly clear. C. P. S.

THE PRINCIPLES OF GERMAN CIVIL LAW. By Ernest J. Schuster. Oxford: At the Clarendon Press. 1907. pp. xl, 684. 8vo.

The new German Empire created by Bismarck was begun on economic principles, was consolidated on the battlefield, and has recently been completed by a great work of legal codification. In 1874, three years after the proclamation of the Empire, a series of committees initiated this enormous task, which was virtually brought to accomplishment by the issue of a series of enactments between 1896 and 1900, of which the chief is the Bürgerlisches Gesetzbuch, or Civil Code. Dr. Schuster, in the present well-produced and well-digested volume, surveys the whole field of the new German civil law on somewhat broad lines. The book may claim, however, to be something more than a general guide. Comparisons are constantly drawn between English and German law that might be of real value to students of comparative jurisprudence, especially in this country, where the conflict of state laws is closely akin to the conditions out of which the German codes arose. Many of the devices adopted by the German codifiers merit serious attention by their boldness and legal force. The contents of the book will appear more clearly from a statement of the titles of its parts: General Rules of Law; Creation, Transfer, and Extinction of Rights; Law of Obligations; Rules relating to Particular Kinds of Obligations; Obligations Created Otherwise than by Act-in-the-Law; Law of Things; Family Law; Law of Inheritance. R. M. J.

THE INTERNATIONAL LAW AND DIPLOMACY OF THE RUSSO-JAPANESE WAR. By Amos S. Hershey. New York: The Macmillan Company. 1906. pp. xii, 394. 8vo.

Amid the great mass of literature that has appeared dealing with one phase or another of the great conflict in the Far East between Russia and Japan, it is pleasant to find one book that has some claim to merit. This having been the first great war in the past quarter century, it naturally gave rise to many important questions relating to the rights, duties, and liabilities of neutrals. These questions have been taken up with some fulness in the chapters dealing with "The Construction, Sale, and Exportation by Neutrals of Warships, Submarine Boats, and other Vessels Intended for Belligerent Service"; "Russian Seizures of Neutral Merchantmen — The Right of Visit and Search and the Alleged Right of Sinking Neutral Prizes"; "Questions Relating to Contraband of War"; "The Rights and Privileges of Belligerent Armed Vessels in Neutral Ports and Waters"; and some others. Most interesting of all is the chapter entitled "War Correspondents, Wireless Telegraphy, and Submarine Mines," for here Professor Hershey shows how the belligerents met new situations which the rules of international law as developed in other wars failed to cover.